REMARKS

In the ***non-final*** Office Action mailed December 24, 2009, the Office noted that claims 12-22 were pending and rejected claims 12-22. In this amendment, claims 12 and 20-22 have been amended, claims 17 and 18 have been canceled, and, thus, in view of the foregoing, claims 12-16 and 20-22 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

REJECTIONS under 35 U.S.C. § 103

Claims 12 and 20-22 stand rejected under 35 U.S.C. § 103(a) as being obvious over Narumi, U.S. Patent Publication No. 2003/0185121 in view of Hirotsune, U.S. Patent No. 7,102,987. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

Claim 12 has been amended to further recite "said first recording layer has a first predetermined area in which the power calibration is performed for said first recording layer, said second recording layer has an unrecorded area which faces the first predetermined area, said second recording layer has a second predetermined area in which the power calibration is performed for said second recording layer, said first recording layer has an unrecorded area which faces the second predetermined area, a radial position of the predetermined area, a radial position of the first predetermined area and a radial position of

the second predetermined area are different from each other." Support for the amendment may be found, for example, in canceled claims 17 and 18 and ¶ [0079] as in the originally filed Specification. The Applicants submit that no new matter is believed to have been added by the amendment of the claim. Claims 20-22 have been amended in a manner consistent with the amendment to claim 12.

The combination of Narumi and Hirotsune, fails to disclose the features of claim 12. In particular, in Figs. 3, 4, 6 to 8, 10 and 13 of Narumi, at least one portion of the first test recording area overlaps with the second test recording area. Therefore, in Narumi, it is clear that the area in the second recording layer which faces the first test recording area is NOT the unrecorded area and the area in the first recording layer which faces the second test recording area is NOT the unrecorded area.

Further, in Narumi, it is clear that there are not two types of areas (i.e. recorded area (embossed pits area) and unrecorded area) in the area in the first recording layer which faces the second test recording area.

In addition, in Figs. 11 and 14 of Narumi, although the first test recording area does not overlap with the second test recording area, the area in the second recording layer which faces the first test recording area is NOT the unrecorded area and the area in the first recording layer which faces the second

test recording area is NOT the unrecorded area.

Further, there are not two types of areas (i.e. recorded area (embossed pits area) and unrecorded area) in the area in the first recording layer which faces the second test recording area. Hirotsune merely discloses that the embossed pits are formed on the medium, and does not disclose the relationship between the three calibration areas, the facing area and two unrecorded areas.

In addition, according to the present claims, since the first recording layer has the facing area which faces the predetermined area, it is possible to omit the recording operation for making the first recording layer in the recorded condition before the information recording apparatus performs the OPC process for the second recording layer, and thus, it is possible to detect the value of the optimum recording power for the second recording layer (especially, the value of the optimum recording power for the second recording layer, which responds to the case where the first recording layer is recorded), more quickly and accurately (see page 24, line 23 to page 25, line 1 of the Specification).

Further, since the first recording layer has the unrecorded area which faces the second predetermined area, it is possible to detect the value of the optimum recording power for the second recording layer, which responds to the case where the first recording layer is unrecorded, by the laser light for

recording which passes through the unrecorded area of the first recording layer (see page 24, lines 3 to 6 of the Specification).

As such, since the radial position of three calibration areas are different from each other, it is possible to prevent such a situation that the test writing in each of the predetermined area and the second predetermined of the second recording layer area becomes inaccurate due to the state of the first predetermine area of the first recording layer, i.e. whether it is recorded or unrecorded with test-writing information (see page 28, lines 6 to 9 of the Specification).

Considering the above advanced technique, which cannot be obtained by Narumi and Hirotsune, it is hardly possible that it would have been obvious to one of ordinary skill in the art to make the present invention based on Narumi and Hirotsune.

For at least the reasons discussed above, Narumi and Hirotsune, taken separately or in combination, fail to render obvious the features of claims 12 and 20-22 or the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. § 103. It is submitted that claims 12-22 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston, Jr./

James J. Livingston, Jr.
Reg. No. 55,394
209 Madison St, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

JJL/lrs